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4 **UNITED STATES DISTRICT COURT**
5 **DISTRICT OF NEVADA**
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7 ANNETTE MCKEE,

8 Plaintiff,

9 vs.

10 DISTRICT ATTORNEY et al.,

11 Defendants.
12

3:16-cv-00337-RCJ-VPC

ORDER

13 This case arises from alleged civil rights violations under 42 U.S.C. § 1983. On
14 September 2, 2016, Magistrate Judge Cooke issued a screening order dismissing Plaintiff
15 Annette McKee's complaint with leave to amend. The screening order was clear concerning both
16 the deficiencies in the complaint and the permitted timeframe for amendment, providing that if
17 Plaintiff failed to file an amended complaint within thirty days of the screening order, the
18 magistrate judge would recommend dismissal with prejudice. (Screening Order 5, ECF No. 3.)

19 Without having amended her complaint, Plaintiff filed two motions in this case on
20 January 3, 2017, for change of venue and default judgment. (ECF Nos. 6, 7.) With no viable
21 complaint in this action, these motions are premature; Plaintiff's case is currently dismissed
22 pending the filing of a first amended complaint. Therefore, the motions must be denied.

23 Under different circumstances, the Court may additionally be inclined to dismiss this case
24 with prejudice due to Plaintiff's failure to file an amended complaint within the time limit

1 provided by the magistrate judge. *See McNamara v. Edwards*, 8 F.3d 28 (9th Cir. 1993)
2 (affirming dismissal with prejudice in similar circumstances). However, it appears Plaintiff never
3 received a copy of the screening order because it was sent to a bad address—1050 N. Hills Blvd.,
4 Reno, NV 89506—which may explain Plaintiff’s failure to amend her complaint. Luckily, the
5 Court has found what looks like Plaintiff’s complete address among her motion filings: 1050 N.
6 Hills Blvd. #60687, Reno, NV 89506. Therefore, in this situation the Court sees fit to give
7 Plaintiff another opportunity to file an amended complaint.

8 **CONCLUSION**

9 IT IS HEREBY ORDERED that the motion for change of venue (ECF No. 6) and motion
10 for default judgment (ECF No.7) are DENIED without prejudice. Plaintiff may refile these
11 motions at an appropriate time, in no event sooner than her First Amended Complaint is filed,
12 screened, and permitted, in whole or in part, to proceed.

13 IT IS FURTHER ORDERED that the Clerk of the Court shall mail a copy of this order to
14 Plaintiff at the updated address of 1050 N. Hills Blvd. #60687, Reno, NV 89506, along with
15 copies of the screening order (ECF No. 3) and Plaintiff’s complaint (ECF No. 4).

16 IT IS FURTHER ORDERED that Plaintiff shall have thirty days from the date of this
17 order to file an amended complaint in accordance with the magistrate judge’s instructions in the
18 screening order (ECF No. 3). Plaintiff is advised that if she does not file an amended complaint
19 within the specified time period, this case will be dismissed WITH PREJUDICE.

20 IT IS SO ORDERED.

21 DATED: This 13th day of April, 2017.

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ROBERT C. JONES
United States District Judge